IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 15TH NOVEMBER 2006 / 24TH KARTHIKA 1928

WP(C).No. 24694 of 2006(M)

PETITIONER:

V.P.HAMEED, AGED 46,
S/O.LATE PAREEKUTTY, PROPRIETOR, S.H.INDUSTRIES,
THIRUMALABHAGAM P.O., KUTHIYATHODU VILLAGE,
THURAVOOR, CHERTHALA TALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY
SMT.THANKOM.G

RESPONDENTS:

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1. STATE OF KERALA, REP.BY
SECRETARY, MINISTRY OF HEALTH, TRIVANDRUM.

2. THE KERALA STATE POLLUTION CONTROL BOARD
PATTOM, TRIVANDRUM, REP.BY ITS MEMBER SECRETARY.

3. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, ALAPPUZHA.

4. THE SECRETARY,
KUTHIYATHODU GRAMA PANCHAYAT,
KUTHIYATHODU, ALAPPUZHA DISTRICT.

BY ADV. SRI.P.SANTHOSH KUMAR (TR)
GOVERNMENT PLEADER P.N. SANTHOSH
ADV. BABU JOSEPH KARUVATHAZHA (SC FOR R2 AND R3)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	A TRUE PHOTOSTAT COPY OF THE RECEIPT ISSUED BY THE 4TH RESPONDENT FOR RENEWAL FEE REMITTED ON 28.2.2006
EXT.P2	A TRUE PHOTOSTAT COPY OF THE CONSENT ISSUED BY THE 2ND RESPONDENT FROM 1994 AND RENEWED UPTO DATE.
EXT.P3	A TRUE PHOTOSTAT COPY OF THE REPORT WAS GIVEN ON 10.6.2006
EXT.P4	A TRUE PHOTOSTAT COPY OF THE ACKNOWLEDGMENT CARD SIGNED BY THE 3RD RESPONDENT ON 12.6.2006
EXT.P5	A TRUE PHOTOSTAT COPY OF ACKNOWLEDGMENT CARD SIGNED BY THE 3RD RESPONDENT FOR HAVING ACCEPTED THE COVER CONTAINING THE DD
EXT.P6	A TRUE PHOTOSTAT COPY OF THE ORDER WHICH PURPORTS TO BE REFUSAL OF CONSENT.
EXT.P7	A TRUE PHOTOSTAT COPY OF THE DD NO.074826 DRAWN ON STATE BANK OF INDIA, ALAPPUZHA BRANCH AN AMOUNT OF RS.7,500/-.
EXT.P8	A TRUE PHOTOSTAT COPY OF THE COMMUNICATION ISSUED TO ANOTHER PEELING SHED ISSUED BY THE 2ND RESPONDENT THROUGH THE 3RD RESPONDENT.
EXT.P9	A TRUE PHOTOSTAT COPY OF the ACKNOWLEDGMENT CARD SIGNED BY THE 3RD RESPONDENT DATED 24.8.2006
EXT.P10	A TRUE PHOTOSTAT COPY OF THE NOTICE DATED 22.8.2006 TO THE PETITIONERS
EXT.P11	A TRUE PHOTOSTAT COPY OF THE ORDER TO CURE THE DEFECT OR ELSE THEY WILL STOPPAGE OF THE INDUSTRY ON 01.9.2006 ISSUED BY THE 4TH RESPONDENT.
EXT.P12	A TRUE PHOTOSTAT COPY OF THE NOTICE TO STOP THE ACTIVITIES ISSUED BY THE 4TH RESPONDENT ON 15.9.2006.

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 24694/2006

Dated this 15th day of November, 2006

JUDGMENT

The fourth respondent, Kuthiyathodu Grama Panchayat, had issued Exts. P11 and P12 stoppage orders, directing the writ petitioner, who is operating a peeling shed in the locality, as the functioning of the peeling shed of the writ petitioner is causing environmental pollution of the area.

2. The learned counsel for the fourth respondent submits that condition No.11 contained in Ext.P2, directing the writ petitioner to provide the facilities mentioned therein for effluent collection, treatment, etc., on or before 31.12.2005, had not been complied with. Owing to the said reason, the fourth respondent did not give licence for the working of the peeling shed of the writ petitioner. The counsel further submitted that the inhabitants of the locality are agitating because of the

pollution, being caused by the functioning of the peeling shed of the writ petitioner and the inhabitants also made a complaint before the Ombudsman.

3. The learned counsel appearing for the writ petitioner submitted that what had been directed through condition No.11 of Ext.P2 had already been complied with and despite the opposition, the lying of pipes for the effluent removal, had also been completed. Therefore, the Pollution Control Board of Alapuzha, had collected an amount of Rs.7,500/-, as could be seen from Ext.P7 receipt, by the Environmental Engineer, Pollution Control office, Alapuzha. The counsel further submits that this amount had been realised only as a penalty fees for the delayed compliance of the directions issued to it. It is also submitted that the consent from the Pollution Control Board is only a formality and the same will be obtained at the earliest and will be furnished before the fourth respondent, Panchayat.

4. In the above facts situation, I direct the third respondent, the Environmental Engineer, Kerala State Pollution Control Board, Alappuzha, to conduct an inspection and satisfy whether the conditions, required to be complied with by the writ petitioner, are satisfactorily completed, as submitted before this Court during the consideration of the writ petition. In such event, on having satisfied of the compliance of the legal requirements, issue necessary consent for the continued functioning of the peeling shed of the writ petitioner. Inspection, if any required, shall be done at the earliest and the consent issued thereafter. This shall be completed within one month from the date of production of a copy of this judgment, before the third respondent.

5. On receipt of the consent letter from the third respondent, the writ petitioner shall furnish it before the fourth respondent, Kuthiyathodu Grama Panchayat, who

shall then issue the required licence, as per the Panchayat Raj Act and Rules.

6. Till the arrangements are made as above, the respondent Nos. 3 and 4 shall not interfere with the working of the peeling shed of the writ petitioner.

The writ petition is disposed of as above.

J.M.JAMES
JUDGE

mrcs